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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,922

08/09/2007

Eric Schliemann

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SUITE 1201  
NEW HAVEN, CT 06510

EXAMINER

LONG, DONNELL ALAN

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

06/21/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/539,922	SCHLIEMANN, ERIC	
	<b>Examiner</b>	<b>Art Unit</b>	
	DONNELL LONG	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 36-54 is/are pending in the application.
- 4a) Of the above claim(s) 38-40, 48-51, 53 and 54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36, 37, 41-47, 52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Amendment filed May 7, 2010 has been acknowledged. Newly presented claims 36-54 have been entered. Claims 36-54 remain pending in the application.

### ***Election/Restrictions***

2. Claims 38-40, 48-51, 53, and 54 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 30, 2009.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for the means by which the outlet channel is closed by the piston as recited in claim 37.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 36, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff (5615806) in view of Steiman (3907174).

Regarding claim 36, Grothoff discloses a fluid dispenser comprising an inlet (49) and a duct in a nozzle (26), wherein the inlet and the duct are disposed separate from

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each other, a dosing and displacement chamber (53) provided between the inlet and duct, wherein the inlet and duct are closable by closure means (39, 41), the inlet and the chamber are disposed in a housing (12), the inlet opens out into the chamber (FIG. 2), the device includes a suction tube (51), an actuating element (25) is inserted in the housing in which the duct is provided, and an ascending tube (32) in the actuating element cooperates with the duct.

Grothoff DIFFERS in that it does not disclose a rotatably disposed spout as claimed. Attention, however, is directed to the Steiman reference, which discloses another dispenser including a rotatably disposed spout (86) with an outlet channel, wherein a duct (84) may be brought into connection with the outlet channel.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Grothoff reference in view of the teachings of the Steiman reference by employing a rotatably disposed spout in order to seal off the duct when the device is not in use to prevent discharge of the product.

Regarding claim 41, the inlet is closable by means of a ball valve (Grothoff, 48) that is pressed in between retaining ribs (46).

Regarding claim 42, a screw-type cap (Grothoff, 15) is disposed on the housing, wherein a central opening is provided for air equalization and a sealing element (marked-up Fig. 2) is disposed in the cap.

6. Claims 43, 44, 46, 47, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff in view of Steiman as applied to claim 42 above and further in view of Santagiuliana (6672486).

Regarding claim 43, the modified Grothoff DIFFERS in that it does not disclose guide ribs as claimed. Attention, however, is directed to the Santagiuliana reference, which discloses another fluid dispenser comprising a screw fastening (20) having guide ribs (14a-c) for guiding a piston (8), allowing a user to adjust the stroke of the pump mechanism.

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Grothoff reference in view of the teachings of the Santagiuliana reference by employing guide ribs in order to guide the plunger and allow a user to adjust the pump stroke of the device.

Regarding claim 44, on the housing there is provided at least one guide element (Grothoff, 18) for guiding the motion of the piston.

Regarding claim 46, a snap engagement (Grothoff, 29) is provided between the plunger and actuating element and a sealing groove (Grothoff, 29) is provided between the actuating element and the plunger.

Regarding claim 47, on an underside of the plunger there is there is a piston or sealing cam (Grothoff, 38), which can be brought into engagement with the recess on the screw fastening.

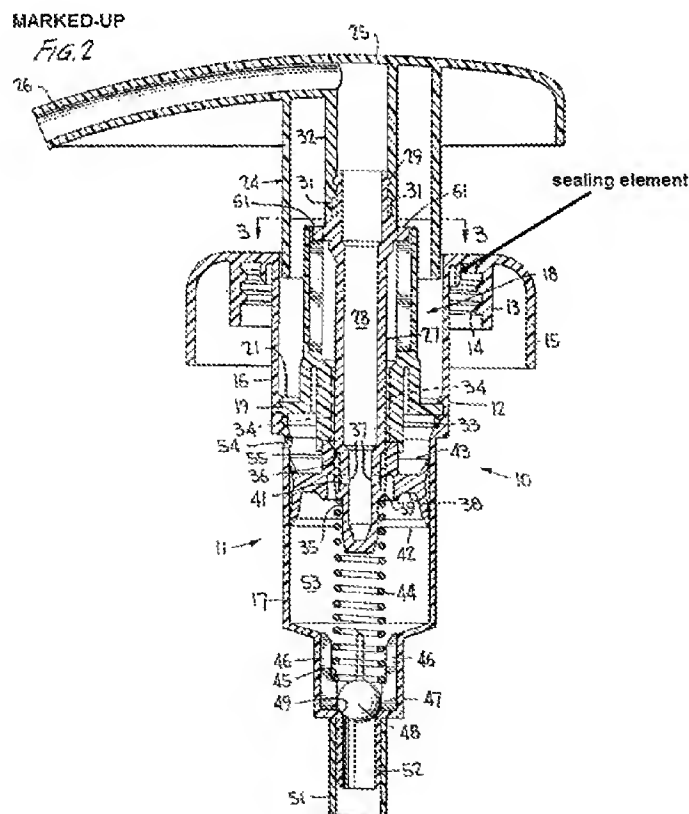
Regarding claim 52, the device is provided with indicators (Grothoff, FIG. 5) for closed and open positions.

7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff in view of Steiman and Santagiuliana, as applied to claim 44 above, and further in view of DeJonge (6443331).

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Regarding claim 45, the modified Grothoff DIFFERS in that it does not disclose a scale as claimed. Attention, however, is directed to the DeJonge reference, which discloses another fluid dispenser comprising an adjustable stroke plunger assembly (19) including a scale (36, 37).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Grothoff reference in view of the teachings of the DeJonge reference by



because doing so would allow a user to adjust the stroke of the pump mechanism as well as measure the amount of fluid to be dispensed.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 36-54 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

9. Claim 37 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNELL LONG whose telephone number is (571) 270-5610. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art Unit 3754